

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON ENERGY AND TELECOMMUNICATIONS

Call to Order: By **CHAIRMAN MACK COLE**, on March 13, 2001 at 3:20 P.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

Sen. Mack Cole, Chairman (R)
Sen. Royal Johnson, Vice Chairman (R)
Sen. Steve Doherty (D)
Sen. Alvin Ellis Jr. (R)
Sen. Bea McCarthy (D)
Sen. Walter McNutt (R)
Sen. Don Ryan (D)
Sen. Corey Stapleton (R)
Sen. Mike Taylor (R)
Sen. Tom Zook (R)

Members Excused: Sen. Mike Halligan (D)

Members Absent: None.

Staff Present: Todd Everts, Legislative Branch
Misti Pilster, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 242, 3/7/2001; HB 167,
3/7/2001; SJ 15, 3/7/2001
Executive Action: HJ 13; HB 242; HJ 20

HEARING ON HB 242

Sponsor: REPRESENTATIVE ROY BROWN, HD 14, Billings

Proponents: None

Opponents: None

Opening Statement by Sponsor:

REPRESENTATIVE ROY BROWN, HD 14, Billings, stated that the legislation was a constituent bill. A ham radio operator got together with his ham radio club and decided they needed some protection from citizens transmitting on unauthorized equipment that was interfering with ham radio operations. After working on the bill, many people were unhappy with the present form and he asked the committee to table it.

Proponents' Testimony: None

Opponents' Testimony: None

Questions from Committee Members and Responses:

SENATOR COREY STAPLETON had received a constituent e-mail dealing with the same issue that he had forwarded on to the sponsor. He wondered if that concern had been used as input for this bill.

REPRESENTATIVE BROWN expressed that the constituent did like the bill as it was originally drafted with the Public Service Commission (PSC) in charge. When that couldn't be done and they went to the private right of action, a letter was received from the state club of ham radio operators, who now do not support the legislation.

Closing by Sponsor:

REPRESENTATIVE BROWN closed on the bill.

HEARING ON HB 167

Sponsor: **REPRESENTATIVE DON HEDGES, HD 97, Antelope**

Proponents: **Deb Kottel, University of Great Falls**

Opponents: **Bob Anderson, Public Service Commission**
Jim Morton, Consumer Resource Council
Jim Nolan, Department of Public Health & Human Service
Deb Martin Young, Montana Power Company
Rachel Haberman, Energy Share
Debbie Smith, Natural Resources Defense Council
Gene Lewwer, Rocky Mountain Development Council

Opening Statement by Sponsor:

REPRESENTATIVE DON HEDGES, HD 97, Antelope, noted that the bill exempts certain entities from the Universal Systems Benefits Charge (USBC) program. Throughout the years, Montana has been very careful not to extend their taxing authority to other taxing districts or government bodies. In 1995, a 2.25% sales tax was put on utilities. The USBC program has collected approximately \$13.5 million for Montana. Only 17% of that is used for the Energy Share program. In Sheridan County, there are 1500 low income families, but only four families have participated in Energy Share.

Proponents' Testimony:

Deb Kottel, University of Great Falls, purported that as originally drafted, the bill included non-profit corporations under 35-2-114. At that time, the University of Great Falls (UGF) and the two other private colleges in Montana believed they were covered under the bill. The committee chose to delete the section for non-profit organizations because there are thousands of non-profit corporations in Montana. They also excluded the private universities and colleges in the state. She submitted an amendment proposed by the UGF, Rocky Mountain College, and Carroll College, **EXHIBIT (ens57a01)**.

Opponents' Testimony:

Bob Anderson, Public Service Commission, replied that the USBC program was done for a good reason. In the electricity sector of society, there are things not taken into account by the market. These include research and development, conservation, low income and renewable resource programs. If different entities are exempted, the amount of available money for those programs will be reduced.

Jim Morton, Consumer Resource Council, declared that the programs covered by the USBC have been in customer's rates for many years. In 1997, the legislature carved out the USBC programs and asked that 2.4% of a utility's revenue would be used to support those programs. He submitted a pamphlet on people helping each other, **EXHIBIT (ens57a02)**.

Jim Nolan, Department of Public Health & Human Service, exclaimed that electric restructuring was discussed in both the 1997 and 1999 sessions. There was a lot of discussion about the uncertainty of what that would mean to Montana and a very vulnerable segment of the population, low income families. It was decided that the USBC program would be put into effect to help protect low income people from an unsure energy future. The Department of Public Health and Human Service (DPHHS) is the

recipient of approximately \$1 million per year from Montana Power Company's (MPC) USBC to help weatherize homes of low income people. They also operate the fuel bill assistance program. Last year, nearly 14,000 households were signed up and that number is currently at about 17,000 households. They are weatherizing around 2,000 households per year.

Deb Martin Young, Montana Power Company, cited that her company collects approximately \$8.6 million in electric USBC from customers on an annual basis. More than 20,000 customers were served in 2000 with the dollars from those programs. Over \$1.8 million have been invested directly into low income. If the bill were to pass, the amount of available benefits to residential and main street customers would be reduced to the tune of \$650,000 in the most conservative estimate. There are 78 schools that participated in MPC's commercial lighting rebate program last year and their energy bills were reduced by about \$72,000 per year as a result of measures they were able to install because of incentives provided through the USBC program. Additionally, 12 Montana schools now have solar systems that reduce their energy costs. The average residential customer of MPC pays about \$1 per month for the USBC. That equals out to slightly over one tenth of a cent per kilowatt hour. Large customers in Montana, through the USBC, have the ability to self-direct their dollars. They make up 34% of the funds MPC collects. Passing this legislation would result in cutting programs and benefits. The individual customer has no control over the price of energy. However, through programs such as the USBC program, customers have more tools to better manage their energy costs.

Rachel Haberman, Energy Share, professed that Energy Share received just \$500,000 out of the 17% of the \$13 million collected by the USBC. The low income portion of the program has had very positive impacts. Last fiscal year, because of USBC programs operated through Energy Share, 787 more families or 2300 more individuals were helped than would have been without the USBC. This year, they have helped twice as many families as last year at the same time. The USBC was already in the rate base before deregulation.

Debbie Smith, Natural Resources Defense Council, submitted written testimony, **EXHIBIT(ens57a03)**.

Gene Lewwer, Rocky Mountain Development Council, elaborated that the customers they see include a lot of low income senior citizens who have already experienced various cost increases. He suggested that the bill be amended.

Questions from Committee Members and Responses:

SENATOR TOM ZOOK wondered where the schools with solar systems were located. **Deb Martin Young** didn't have the list of exact locations, but they are scattered around MPC's distribution territory. **SENATOR ZOOK** felt like the USBC was like a tax. **Ms. Martin Young** informed the committee she wasn't very familiar with taxes. The USBC supports programs that, with the exception of renewables, MPC customers supported in their rates prior to a USBC.

SENATOR ZOOK questioned whether the university system gets more money back than what it actually costs them. **Debbie Smith** indicated she hoped so and that they weren't investing in the right efficiency measures if they didn't. She assumed that the university system and other large customers were doing demand reduction measures so they don't need to go out and buy as much expensive power. **SENATOR ZOOK** was curious whether a group would get more benefit by contributing to the USBC program or by keeping a certain amount of money and putting it to work within that organization. **Debbie Smith** explained that if the university system spent \$10,000 and was able to buy power at four cents per kilowatt hour as opposed to paying six cents for the same amount of power, money would actually be freed up for other things. The reason renewables, conservation, and low income were all linked together in SB 390 was that they aren't things the market would take care of.

SENATOR ALVIN ELLIS speculated that there is a tremendous incentive today for people in the power generating business to do research and development in order to provide power in a way that meets certain requirements. In addition, there is an incentive for power users to figure out ways to conserve energy. **Debbie Smith** commented that there is more incentive for conservation when market prices increase and some environmentalists appreciate that because people can see the benefit and may change their behavior. If there is a monetary incentive from the utility, customers will change their behavior. **SENATOR ELLIS** suggested that the Public Service Commission (PSC) has tried to increase costs to prevent market-oriented decisions. **Ms. Smith** thought that dampening the market signals of power was a disincentive to conservation. The balance the PSC currently has is to try to protect consumers from prices that aren't relevant to market costs plus a reasonable profit.

SENATOR STEVE DOHERTY inquired where the money would come from to fund programs that are currently operating if the bill passed and what would happen to the programs. **Jim Nolan** contended that they would weatherize fewer homes as it costs about \$2,500 per home to weatherize. They are getting funds from the Bonneville Power Administration (BPA).

SENATOR DOHERTY desired to know where the exemptions from USBC should stop. **Deb Kottel** professed that many non-profit organizations are already exempt from various taxes. In terms of the USBC and exemptions, it only seems fair that private colleges and universities fit within the spirit of the legislation.

SENATOR DOHERTY desired to know if the program provided assistance to low income citizens to help pay their energy bills, and whether dollars would be freed up to pay for hospital bills, university tuition, etc. **REPRESENTATIVE HEDGES** asserted that in terms of exemptions, private institutions aren't part of the state retirement program.

SENATOR MACK COLE asked for a dollar figure in terms of the exempted entities. **Ms. Martin Young** didn't have the specific numbers available.

Closing by Sponsor:

REPRESENTATIVE HEDGES submitted that a sales tax had been put in place on energy for institutions that have traditionally been tax exempt. In the Montana Dakota Utilities (MDU) service area, nearly \$700,000 has been collected.

HEARING ON SJ 15

Sponsor: **SENATOR EMILY STONINGTON, SD 15, Bozeman**

Proponents: Jay Preston, Ronan Telephone
Chuck Evilsizer, Hot Springs Telephone
Cynthia Preston, Self
Bill Koberg, Ronan Telephone Advisory Committee

Opponents: Geoff Feiss, Montana Telecommunications Assn.
Joan Mandeville, Blackfoot Telephone
Mike Strand, Montana Independent Telecommunications
Systems

Opening Statement by Sponsor:

SENATOR EMILY STONINGTON, SD 15, Bozeman, declared that the legislation was a proposal to do a study on a telecommunications arena. The idea was brought to her attention by Ronan Telephone due to a complaint.

Proponents' Testimony:

Jay Preston, Ronan Telephone, submitted written testimony, **EXHIBIT**(ens57a04) .

Chuck Evilsizer, Hot Springs Telephone, submitted written testimony, **EXHIBIT**(ens57a05), **EXHIBIT**(ens57a06) .

Cynthia Preston, Self, submitted written testimony, **EXHIBIT**(ens57a07) .

Bill Koberg, Ronan Telephone Advisory Committee, submitted written testimony, **EXHIBIT**(ens57a08) .

Opponents' Testimony:

Geoff Feiss, Montana Telecommunications Assn., submitted written testimony and a substitute resolution, **EXHIBIT**(ens57a09), **EXHIBIT**(ens57a10) .

Joan Mandeville, Blackfoot Telephone, submitted written testimony, **EXHIBIT**(ens57a11) .

Mike Strand, Montana Independent Telecommunications Systems, noted that his organization finished a study like this about four years ago called the Governor's Blue Ribbon Telecommunications Task Force. He explained that the proposed study would be very extensive and costly. He described several points to the resolution and submitted a map and pamphlets, **EXHIBIT**(ens57a12), **EXHIBIT**(ens57a13), **EXHIBIT**(ens57a14) .

Questions from Committee Members and Responses:

SENATOR ELLIS noted the omission of the income tax differences that regulated, investor owned telephone utilities have as compared to cooperatives. **SENATOR STONINGTON** was not aware of the study that occurred four years ago. With regard to the income tax discrepancies, she felt it would be worth studying. Her concerns were basically the tax competitive and the regulatory competitive environments.

SENATOR ROYAL JOHNSON was curious how the sponsor got into this telecommunications mix. **SENATOR STONINGTON** explained that Ronan Telephone went to her and presented their side of the story. They wanted the sponsor to carry a bill proposing a change in tax law.

SENATOR JOHNSON wished for a description of the study four years earlier. **Mike Strand** cited that it lasted about two years and there were approximately five different subcommittees. It was

established to look at Montana's telecommunications infrastructure and operating environment, in addition to making recommendations to the both the legislature and the governor. At the beginning of the Task Force's existence, the 1996 Telecommunications Act was passed. As part of its mission, the Task Force looked at the new federal act and did what it could to ensure successful implementation. The end result was legislation proposed two sessions ago to implement the federal act in Montana. There were four legislators, five or six telecommunications industry people, and about eight consumer industry people. **SENATOR JOHNSON** asked what the recommendation to the governor was. **Mr. Strand** proclaimed that an important part was to set forth a policy in regard to competition and universal service.

SENATOR ELLIS suggested that Montana Wireless participates in wireless communication in competition with Verizon and other providers. **Joan Mandeville** cited Verizon, Cellular One, Qwest, and local competitive operations. **SENATOR ELLIS** wondered if her organization paid income tax comparable to corporate income tax on certain endeavors. **Ms. Mandeville** affirmed that it was comparable.

Closing by Sponsor:

SENATOR STONINGTON clarified that cooperatives do not pay income taxes. She was not recommending that the legislature appropriate funds for the study. Instead, there were some aspects that should to be evaluated and referred to a standing interim committee. The cooperatives don't want the study and are concerned. If there are policy issues worth studying, it is appropriate that the legislature take a look at it. She thought that provisions 8-11 should be disregarded and believed that the others had some merit.

EXECUTIVE ACTION ON HJ 13

Motion/Vote: **SENATOR ELLIS** moved that **AMENDMENT HJ001301.ATE, EXHIBIT(ens57a15)**, BE CONCURRED IN. Motion carried 8-0. **SENATORS DOHERTY, MIKE HALLIGAN, and MIKE TAYLOR** were excused.

Motion/Vote: **SENATOR ELLIS** moved that **HJ 13 BE CONCURRED IN AS AMENDED**. Motion carried 8-0. **SENATORS DOHERTY, HALLIGAN, and TAYLOR** were excused.

EXECUTIVE ACTION ON HB 242

Motion/Vote: SENATOR MCCARTHY moved that HB 242 BE TABLED. Motion carried 8-0. SENATORS DOHERTY, HALLIGAN, and TAYLOR were excused.

EXECUTIVE ACTION ON HJ 20

Motion/Vote: SENATOR JOHNSON moved that HJ 20 BE RECONSIDERED. Motion carried 6-2 with McNutt and Ryan voting no. SENATORS DOHERTY, HALLIGAN, and TAYLOR were excused.

Motion/Vote: SENATOR ZOOK moved that HJ 20 BE TABLED. Motion carried 8-0. SENATORS DOHERTY, HALLIGAN, and TAYLOR were excused.

SENATOR DON RYAN explained the possibility of raising the rates from 2001 to 2002 to build up a rate stabilization fund so there might be some leverage when competitive bids for contracts are sought. Currently, the PSC cannot raise rates because of the law. If the legislature gave the PSC the authority to raise rates by one cent now, they would be able to generate nearly \$50 million. Rates in California are currently eight cents, while Montanans are paying about two cents. In July 2001, if the legislature would give the PSC authority to raise rates and they controlled the money, the money would begin to grow. In addition, a portion of the money collected could be used to pay down rates for people on fixed incomes.

ADJOURNMENT

Adjournment: 5:30 P.M.

SEN. MACK COLE, Chairman

MISTI PILSTER, Secretary

MC/MP

EXHIBIT (ens57aad)